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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,873	01/23/2004	Michael J. Lembo	D0932-00432	6004
8933	7590	04/06/2006	EXAMINER	
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/763,873	Applicant(s) LEMBO ET AL.	
	Examiner Carolyn T. Blake	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 6,9,10,12 and 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,11,13-15,28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on December 27, 2005.
2. The objection to the drawings is withdrawn in view of the amendment.
3. The text of those sections in Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

4. Claims 1, 4, 5, 8, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevie (6,119,439).

Regarding claim 1, Stevie discloses an apparatus capable of manufacturing insulation as claimed, including: a conveying means for conveying a web; a rotary die cutting cylinder (22) located along a path of the conveying means and having at least one cutting rule (42) that severs said web, and having at least one of the group consisting of a perfining rule and a slicing rule (40), said slicing rule sized to partially cut through said insulation without cutting through a complete depth of said insulation; and an anvil (20) cooperative with said rotary die cutting cylinder (22) for partially slicing, perforating, or severing said web.

Regarding claim 4, Stevie discloses the rotary die cutting cylinder (22) includes three perfining or slicing rules (20) and one cutting rule (42).

Regarding claim 5, Stevie discloses the rotary die cutting cylinder (22) includes two cutting rules (42) and six perfining rules (40) with steps (46) along a

length thereof. The teeth (40) of the Stevie reference can be considered "steps" as claimed because they form an uneven, discontinuous, jagged cutting edge.

Regarding claim 8, Stevie discloses wherein the perfining or slicing rules (40) and at least one cutting rule (42) are removable. See the fasteners attaching the rules in FIG 1.

Regarding claim 28, Stevie discloses the rotary die cutting cylinder (22) is oriented relative to the conveying means so that the web is partially sliced, perforated, or severed transversely.

Regarding claim 29, Stevie discloses each perfining rule (40) has steps (teeth 46) along a length thereof.

***Claim Rejections - 35 USC § 103***

5. Claims 1-5, 8, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya (4,781,091) in view of Stevie.

Regarding claim 1, Nakaya discloses an apparatus capable of manufacturing insulation substantially as claimed including: a conveying means (4) for conveying a web; a rotary die cutting cylinder (2) located along a path of the conveying means (4) and having one slicing rule (8) and at least one cutting rule (8); and an anvil (3) cooperative with said rotary die cutting cylinder (2) for severing said web. Nakaya fails to disclose a perfining rule or a slicing rule that partially cuts through the insulation. Stevie discloses a rotary cutting cylinder (22) having at least one cutting rule (42) that severs and at least one perfining rule or slicing rule (40) that partially cuts through a work piece. The Stevie cutting

Art Unit: 3724

cylinder and arrangement of perfining and cutting blades creates a different cutting pattern on the work product than that created by the Nakaya cutting cylinder. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include perfining or slicing rules, as taught by Stevie, with the Nakaya cutting cylinder and apparatus for the purpose of creating a different work product.

Regarding claim 2, Nakaya discloses two adjacent conveyor belts (4 and 5).

Regarding claim 3, Nakaya discloses the rotary die cutting cylinder (2) and anvil (3) are located intermediate the two conveyor belts (4 and 5).

Regarding claim 4, Stevie discloses the rotary die cutting cylinder (22) includes three perfining or slicing rules (20) and one cutting rule (42).

Regarding claim 5, Stevie discloses the rotary die cutting cylinder (22) includes two cutting rules (42) and six perfining rules (40) with steps (46) along a length thereof. The teeth (40) of the Stevie reference can be considered "steps" as claimed because they form an uneven, discontinuous, jagged cutting edge.

Regarding claim 8, the rules of Stevie are removable. See the fasteners securing the rules in FIG 1.

Regarding claim 28, Nakaya discloses the rotary die cutting cylinder (2) is oriented relative to the conveying means so that the web is severed transversely.

Regarding claim 29, Stevie discloses each perfining rule (40) has steps (teeth 46) along a length thereof.

Art Unit: 3724

6. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevie as applied to claim 1 above, and further in view of the following.

Stevie fails to disclose the dimensions of the device. However, to create a cutting device with the dimensional parameters claimed would have been obvious to one of ordinary skill in the art for the purpose of spatial constraints, work piece dimensions, or available tooling.

7. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Stevie as applied to claim 1 above, and further in view of the following.

The Nakaya-Stevie combination fails to disclose the dimensions of the device. However, to create a cutting device with the dimensional parameters claimed would have been obvious to one of ordinary skill in the art for the purpose of spatial constraints, work piece dimensions, or available tooling.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevie as applied to claims 1 and 11 above, and further in view of the following.

Stevie discloses six perfining or slicing rules (40) and two cutting rules (42), but fails to disclose the pattern of blades disclosed and the dimensions of the device. Varying the type, number, and pattern of the blades creates a different work product. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a different pattern of rules for the purpose of creating a different work product. In addition, to create a

Art Unit: 3724

cutting device with the dimensional parameters claimed would have been obvious to one of ordinary skill in the art for the purpose of spatial constraints, work piece dimensions, or available tooling.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Stevie as applied to claims 1 and 11 above, and further in view of the following.

Stevie discloses six perfining or slicing rules (40) and two cutting rules (42). The Nakaya-Stevie combination still fails to disclose the pattern of blades disclosed and the dimensions of the device. Varying the type, number, and pattern of the blades creates a different work product. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a different pattern of rules for the purpose of creating a different work product. In addition, to create a cutting device with the dimensional parameters claimed would have been obvious to one of ordinary skill in the art for the purpose of spatial constraints, work piece dimensions, or available tooling.

10. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Stevie as applied to claim 1 above, and further in view of Ohara (5,695,105).

The Nakaya-Stevie combination fails to disclose means for tearing. However, Ohara discloses means for automatically tearing separable segments apart wherein the tearing means includes for conveying a first and second adjacent separable segments at different speeds to tear the first and second

Art Unit: 3724

segments apart from each other. See col. 1, lines 33-40. This method could be easily implemented in the Nakaya device due to the location of the two conveyors (4 and 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the Nakaya conveyors at different speeds, as taught by Ohara, for the purpose of separating segments.

### ***Response to Arguments***

11. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Applicant has argues claims 9 and 10 read on the elected invention and should be examined. However, these claims read on the species shown in FIG 3A (not elected) and are not generic to all species. See paragraph 31 of the disclosure. These claims remain withdrawn and have not been examined.

Applicant argues claims 6, 8, and 16 have not been rejected on the prior art and should be allowed. However, these claims do not read on the elected invention, as indicated by Applicant in the response filed on September 9, 2005. These claims are withdrawn and have not been examined.

Applicant's arguments with respect to the prior art rejections are moot in view of the newly cited Stevie reference. While Stevie shows a perforation blade with steps similar to Applicant, it is recommended Applicant add further limitations to more clearly define what is meant by the steps.

While differences may exist between Applicant's device and the prior art of record, these differences have not been claimed.



***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CB  
March 2, 2006



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